

REFERENCE TITLE: victims' rights; failure to comply

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1176

Introduced by
Senator Huppenthal

AN ACT

AMENDING SECTION 13-4436, ARIZONA REVISED STATUTES; RELATING TO VICTIMS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-4436, Arizona Revised Statutes, is amended to
3 read:

4 13-4436. Effect of failure to comply

5 A. THE FAILURE TO COMPLY WITH A VICTIM'S CONSTITUTIONAL OR STATUTORY
6 RIGHT IS A GROUND FOR THE VICTIM TO REQUEST A REEXAMINATION PROCEEDING.
7 AFTER THE VICTIM REQUESTS A REEXAMINATION PROCEEDING AND GIVING REASONABLE
8 NOTICE, THE COURT SHALL AFFORD THE VICTIM A REEXAMINATION PROCEEDING TO
9 CONSIDER THE ISSUES RAISED BY THE DENIAL OF THE VICTIM'S RIGHT. EXCEPT AS
10 PROVIDED IN SUBSECTION B, THE COURT SHALL VACATE ANY DECISION THAT ARISES
11 FROM A PROCEEDING IN WHICH THE VICTIM'S RIGHT WAS NOT PROTECTED AND SHALL
12 ENSURE THAT THE VICTIM'S RIGHTS ARE THEREAFTER PROTECTED.

13 A. B. The failure to use reasonable efforts to perform a duty or
14 provide a right is not cause to seek to set aside a conviction ~~or sentence~~.

15 B. C. Unless the prisoner is discharged from ~~his~~ THE PRISONER'S
16 sentence, the failure to use reasonable efforts to provide notice and a right
17 to be present or be heard pursuant to this chapter at a proceeding that
18 involves a post-conviction release is a ground for the victim to seek to set
19 aside the post-conviction release until the victim is afforded the
20 opportunity to be present or be heard.

21 C. D. If the victim seeks to have a post-conviction release set aside
22 pursuant to subsection ~~B-C~~, the court, board of executive clemency or state
23 department of corrections shall afford the victim a reexamination proceeding
24 after the parties are given notice.

25 D. E. A reexamination proceeding conducted pursuant to this section
26 or any other proceeding that is based on the failure to perform a duty or
27 provide a right shall commence not more than thirty days after the
28 appropriate parties have been given notice that the victim is exercising ~~his~~
29 THE right to a reexamination proceeding pursuant to this section or to
30 another proceeding based on the failure to perform a duty or provide a right.